IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

CRL.A.No. 1102 of 2003()

AGAINST THE ORDER IN CRLP.121/2003 Dated 02/07/2003
ST.1562/2002 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE

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APPELLANT: COMPLAINANT

M.M.MOIDEENKOYA S/O. SAIDALI,
SEVERA, MALNOTAM, KOZHIKODE.

BY ADV. SRI.V.G.ARUN

RESPONDENTS: ACCUSED & STATE

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1. K.T.MOIDEEN KOYA,
PUNCHIRI MOTOR DRIVING SCHOOL, NEAR R.M.HOSPITAL,
BEYPORE, KOZHIKODE.

2. THE STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.1102 of 2003(C)

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Dated this the 10th day of October, 2007

J U D G M E N T

The appellant is the complainant in S.T.No.1562/2002 in the file of the Judicial Magistrate of the First Class-V, Kozhikode, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 12/11/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.1102 of 2003(C)

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J U D G M E N T

10th October, 2007